



U.S. DEPARTMENT OF
ENERGY

TITLE IX COMPLIANCE REVIEW

UNIVERSITY OF NORTH DAKOTA

Department of Physics and Astrophysics

June 2014

TITLE IX COMPLIANCE REVIEW REPORT

Department of Physics and Astrophysics University of North Dakota

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TITLE IX COMPLIANCE REVIEW REPORT

Department of Physics and Astrophysics University of North Dakota

I. Introduction

The Office of Civil Rights (OCR), United States Department of Energy (DOE or the Department), conducted a Title IX compliance review of the Department of Physics and Astrophysics at the University of North Dakota (UND or the University) pursuant to Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. Section 1681, *et seq.*, and the Department's implementing regulations, Section 10 C.F.R. Part 1042. This report is based on a review of records and other data provided by the University, information obtained from the University's website, and information obtained by an OCR review team during interviews conducted remotely via video teleconferencing and using online chat media on September 27 and September 28, 2011. The review team held interviews with undergraduate and graduate students, Department of Physics and Astrophysics faculty, as well as the Provost and Vice President for Academic Affairs, and other administrative officials.

A. Objective and Scope

The objective of the review was to determine whether the University of North Dakota's undergraduate and graduate Physics and Astrophysics programs are in compliance with the Department of Energy's Title IX implementing regulations to the extent that all students have equal access to opportunities and benefits; and, whether the University's Title IX policies, procedures and practices, including the University's complaint processes, were in compliance with the regulations. The review team also reviewed the University's admission, retention, outreach and recruitment, and financial assistance policies and practices, as well as pending sexual discrimination and harassment complaints, and training offered to students, faculty, and staff.

B. Background

DOE is the government's primary funding agency for basic research and development in Physics. Many of the graduate Physics departments in the country's colleges and universities are recipients of DOE funding. Thousands of graduate and post-doctoral students, faculty, and principal investigators at these educational institutions are beneficiaries of Federal funding.

Title IX and DOE implementing regulations (10 C.F.R. Part 1042) prohibit discrimination on the basis of sex in any educational program or activity that receives

Federal financial assistance. These laws require that the Department conduct reviews of at least two recipient institutions annually to ensure that they are in compliance with the prohibition against sex discrimination.

In July 2004, the Government Accountability Office (GAO) issued a report to Congress¹ which reviewed the compliance activities of the four Federal science agencies (the Department of Energy, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration). The GAO found that the science agencies had taken significant steps to ensure that the institutions to which they provide financial assistance are in compliance with Title IX, yet women were not fully represented in those institutions. As a consequence, the GAO recommended that DOE and other agencies conduct post-award monitoring of its recipients of Federal financial assistance to ensure that sex discrimination is not a factor preventing women from pursuing science degrees. Additionally, the America COMPETES Act, Pub. Law No. 110-69, 121 Stat. 573 (2007), requires that the Department conduct, at a minimum, two compliance reviews every year of institutions that receive financial assistance, and to report to Congress on DOE's actions to implement the GAO recommendations.

II. The UND Physics and Astrophysics Program

UND's Department of Physics and Astrophysics is a small program with an enrollment of approximately thirty-one (31) undergraduate and twelve (12) graduate students. There are nine (9) faculty members who teach and conduct research. The programs include theoretical and experimental Physics, and emphasize Condensed Matter Physics, Materials Science, and Astrophysics. The research program confers Master of Science (M.S.) and Doctor of Philosophy (Ph.D.) degrees. In addition, the Department of Physics and Astrophysics awards Bachelor of Science degrees in general Physics as well as specialized degrees in Applied Physics, Astrophysics, Computers in Physics and Materials Science.

Undergraduate students must complete twenty-one (21) credits in undergraduate Physics, mathematics in differential equations, intermediate course work in mechanics, electricity and magnetism, optics, thermal Physics, quantum Physics and Chemistry in order to gain admission to the Master of Science program. Degree requirements for the master's include thirty (30) semester credits in specified courses and the completion of a research project and thesis. The thesis topic must be approved by the Faculty Advisory Committee and filed with The Graduate School. The final examination is before the Committee.

The Ph.D. degree requires ninety (90) graduate credits, a 3.0 GPA, thirty-six (36) hours of research and specified coursework, successful completion of a written qualifying examination and written doctoral comprehensive examination, completion of research investigation, dissertation, and oral examination.

¹ GAO Report Number 04-0639, entitled *Gender Issues: Women's Participation in the Sciences Has Increased but Agencies Need to Do More to Ensure Compliance with Title IX*.

The Qualifying Examination is taken after the first two semesters. This exam covers undergraduate and the first year of graduate level coursework. The dissertation is developed under the guidance of the student's faculty advisor and the Committee. The Comprehensive Examination is taken in the 5th semester of graduate study, and includes an oral presentation of the research and a written examination. The final examination is conducted by the candidate's full Faculty Advisory Committee in the presence of the Dean of The Graduate School and members of the faculty who wish to be present. A student may pass the examination with one dissenting vote. If the candidate fails the examination, he or she may repeat it with the approval of an Advisory Committee and the Dean.

A. The Graduate School at UND

The Graduate School is organized around thirteen academic areas of study, and is responsible for general supervision of all graduate activity at UND, including the graduate work in the Department of Physics and Astrophysics.

The Graduate School's policies are established by the graduate faculty, which is composed of the President and Vice President for Academic Affairs, the Dean of The Graduate School, and other members of the faculty. The Dean is the chief administrative officer of The Graduate School.

The Graduate Committee develops the graduate school curriculum, and is the appeal board for student petitions on academic matters. The Committee is composed of The Graduate School Dean and Associate Dean, faculty members elected to represent The Graduate School's academic areas of study, and one student. Faculty Advisory Committees are composed of graduate faculty members who serve as advisors to graduate students.

B. Student Population

The Physics program has a very small enrollment. There were thirteen students enrolled in the master's and Ph.D. Physics program at the beginning of the 2010-2011 academic years. One student dropped out before the review began. Five students were enrolled part-time. Two students were female; one was a full-time master's student, and the other was a full-time Ph.D. candidate. Twenty-eight (28) undergraduate students were enrolled in Physics and Astrophysics courses during the 2010-2011 academic year. Title IX compliance reviewers conducted one-on-one interviews with eleven (11) students; three undergraduate and eight graduate (or 27%), were interviewed during the compliance review. The reviews were conducted remotely with laptops, via the Google + Hangout feature, which enabled the reviewers and the interviewees to see and hear one another.

Tables 1a and 1b show the enrollment of students, by gender, in the master's and Ph.D. programs, from academic years 2006-2007 through 2010-2011.

Table 1a: Graduate Physics Student Enrollment (includes MS and Ph. D students)

Academic Year	Total Enrolled	Male	% Male	Female	% Female
2006-2007	11	8	73	3	27
2007-2008	12	10	83	2	17
2008-2009	10	8	80	2	20
2009-2010	11	10	91	1	9
2010-2011	13	11	85	2	15

Table 1b: Undergraduate Physics Student Enrollment

Academic Year	Total Enrolled	Male	% Male	Female	% Female
2006-2007	25	19	76	6	24
2007-2008	28	17	61	11	39
2008-2009	31	25	81	6	19
2009-2010	23	22	96	1	4
2010-2011	28	25	89	3	11

C. Faculty and Administrators

There were nine faculty members in the Physics and Astrophysics department during the 2010-2011 academic years. All of the full-time professors were male. There was one female adjunct professor. One-on-one interviews were held with seven faculty members during the review.

The review team also interviewed the following administrators individually: Provost and Vice President for Academic Affairs, Affirmative Action Officer (also the Title IX Coordinator), Interim Dean for the College of Arts and Sciences, Interim Dean of The Graduate School, Associate Vice President for Student Services and Dean of Students, Chair of the Physics Department, Director of Admissions, and the Director of Enrollment Services.

The review team conducted all of the faculty and administrator interviews and introductory and closing sessions with administrators via video teleconference. The

University's general counsel was present at both the introductory and the exit meeting, as well as during some of the interviews with administrators.

D. Recruitment and Outreach Programs

1. Recruitment and Outreach Activities

DOE regulations prohibit discrimination on the basis of sex in the admissions and recruitment of students.² The review looked for evidence of any disparities in the treatment of students by gender in the recruitment and outreach policies and practices of the University. The reviewers inquired into specific outreach activities intended to attract female applicants. These inquiries were prompted by the GAO report and other statistical reports that found that women were underrepresented in graduate Physics departments at universities.³

The Graduate School at UND is responsible for recruitment in all graduate programs, including masters and doctoral Physics and Astrophysics programs. The Interim Dean in the Office of the Dean of The Graduate School was interviewed for this review. The Dean's Office is staffed by the Interim Dean, an Administrative Officer, Administrative Clerk, Director of Marketing, and Project Management Specialist. The Graduate School also employs a Director of Admissions and Recruitment for Graduate Admissions and Recruitment Coordination, two Admissions Specialist, and two Graduate Recruitment Associates.

There is no specific outreach program directed at recruiting students of a specific gender to the Physics program at UND. Rather, outreach activities are directed to all students. They include publicizing the graduate program in the *Graduate Programs in Physics, Astronomy, and Related Fields* directory published by the American Institute of Physics. The Graduate School participates in college and education fairs, and advertises online, in print, and on the radio to promote all UND graduate programs, including the graduate Physics program. The University submitted documentation regarding its recruitment activities, which indicated that recruitment visits, including graduate fairs, took place at schools located in North Dakota, South Dakota, Minnesota, Montana, Illinois, Iowa, Utah, Wisconsin, and Indiana. Visits to other states were eliminated due to scheduling conflicts, financial, or personnel limitations.

The graduate Physics program is featured electronically on GradSchoolShopper.com, a guide to graduate programs in Physics and related fields sponsored by the American Institute of Physics.

The Graduate School advertises its program with gradschools.com, *Hobson's USA Education Guide*, Minnesota Public Radio, *US News and World Report*, the *Grand Forks Herald* newspaper, *Utah Chronicle*, *G.I. Jobs*, and in the Big 10 Grad Fair promotional

² DOE regulation Title 10, *Code of Federal Regulations*, §1042.300.

³ The American Institute of Electrical Engineering Statistical Research Center reported in 2005 that women earned only 18% of the doctorate degrees awarded in Physics.

materials. In recent years, UND has made use of The Graduate School blog and Twitter to promote their graduate programs.

2. Feedback from Student, Faculty, and Administrator Interviews

Most of the students who were interviewed stated that they had not been recruited through any outreach activity of the University or the Department of Physics and Astrophysics. Two students stated that they were recruited by professors in the Graduate Physics Department. Those two students were vaguely aware of some outreach activity. Most of the students said that they were unaware of any recruitment activities. Students stated that they were attracted to the University because of its proximity to their family homes, or because they were interested in the work of a particular researcher.

An administrator and a few faculty members expressed the opinion that the harsh climate of North Dakota is considered a major recruitment obstacle for the University. In addition, because UND is a part of a small community, it is believed to be difficult for the spouses of some potential students to find employment.

Finding

The Department did not find any evidence of discrimination based on sex in the outreach and recruitment practices of The Graduate School at UND. We conclude that the University is in compliance with Title IX and DOE implementing regulations, with respect to its outreach and recruitment practices.

E. Admissions

1. Admissions Policies

DOE's implementing regulations prohibit discrimination on the basis of sex in admissions policies and procedures. Reviewers examined the admissions data, and questioned administrators, faculty, and students about the policies and practices of the University's admissions process. According to the UND Admissions Director and the Vice Provost of Enrollment Management, there are no admission policies and procedures or numerical limitations on the admission of applicants to the undergraduate or graduate Physics programs. Furthermore, the Department of Physics and Astrophysics does not have any written policies or procedures for ranking applicants in either its undergraduate or graduate programs. The gender of the applicant is not considered when determining whether to grant admission to either the undergraduate or the graduate Physics programs.

Teaching assistantships are the primary source of financial support for the graduate students. Consequently, the number of students who are offered admission to the graduate program in any given year is limited to the availability of teaching assistantships.

2. Bachelor of Science

All applications for admissions to the undergraduate program, including declared Physics majors, must be submitted electronically. Application requirements include the completion of an online application form, as well as submission of GPA, and ACT/SAT scores. The Department of Physics and Astrophysics has no involvement in the admissions process for undergraduate students. All applicants who meet the admissions requirements for the University are accepted to the undergraduate program within the Department of Physics and Astrophysics.

Students are granted automatic admission to UND with a SAT combined score of 990 or ACT composite score of 2, and a minimum GPA of 2.5. International students must also meet English language testing requirements. Once admitted, the student is enrolled in the undergraduate college of his or her declared major. Students who declare a major in Physics are enrolled in the College of Arts and Sciences.

3. Master of Science

All applications for admission to the Master of Science in Physics and Doctoral programs and supporting materials must be submitted electronically to The Graduate School by the first day of March. All applicants are required to submit the following: 1) application form; 2) application fee; 3) three letters of recommendation; 4) one official copy of all academic transcripts; and 5) statement of goals and objectives. Applicants to the Physics Department must also submit General and Advanced Physics (GRE) test scores.

In order to be admitted without qualification to the Master of Science Program for Physics, students are required to have a cumulative GPA of at least 2.75, or a 3.0 for the junior and senior years. Students must also have a minimum of twenty-one (21) semester credits in Physics and Differential Equations, coursework in Mechanics, Electricity and Magnetism, Optics, Chemistry, and Thermal and Quantum Physics. International students are required to have a minimum TOEFL score of 550 (Internet-based composite score of 79). If a student has not satisfied these requirements, he or she is required to complete the necessary course work without credits.

Applications are forwarded to the Department of Physics Graduate Coordinator and made available to all tenured and tenure-track faculty in the Department of Physics and Astrophysics. The faculty members make written recommendations regarding whether or not the applicant meets the admission requirements. Thereafter, the Department of Physics and Astrophysics' Graduate Committee meets and considers the recommendations of the faculty. A vote is taken to either admit or reject the applicant. The decision on the application is relayed to The Graduate School.

4. Doctor of Philosophy (Ph.D.)

Students are required to submit their applications for admissions to The Graduate School. The Graduate School establishes criteria for acceptance to the graduate program. Students who have met all requirements are granted "Approved Status." The application for admission includes the completed online application form, recommendation letters, transcripts, and statement of goals and objectives. However, acceptance into The Graduate School does not mean that the student will become a candidate for a degree. Each graduate program makes its own admission recommendations. Only those that have been given a letter from the Dean of The Graduate School may pursue an advanced degree.

In general, entry into the Physics Ph.D. program requires a 3.0 GPA, GRE for advanced Physics and a departmental recommendation. Applications are forwarded from The Graduate School to the Physics Department's Graduate Coordinator, where they are then made available to all tenured and tenure-track faculty. Any faculty members who wish to participate in the admissions process can make a written recommendation regarding whether to admit the student. Thereafter, the Graduate Committee considers the applications and faculty recommendations, and votes to admit or reject each applicant. The decisions are forwarded to the Dean of The Graduate School for final decision.

5. Department of Physics and Astrophysics Graduate Committee

The Graduate Committee is composed of three faculty members who are members of the University Graduate Faculty. The Committee is responsible for monitoring and updating all policies of the department's graduate program, and also assists in the recruitment and admission of graduate students.

The Graduate Committee considers each student's undergraduate and graduate grades, particularly in Physics courses, as well as the quality of the undergraduate school attended by the student, the student's preparation in Physics, GRE test scores, recommendation letters, and the likelihood of success.

6. Graduate Physics Department Admissions Data

The admission data in the tables below are extracted from information provided by the University, pursuant to DOE's data request.

Table 2 shows the number and percentage of applicants, by gender, who applied to the master's and Ph.D. programs from academic years 2006-2007 through 2010-2011.

Table 2: Graduate Physics Student Applicants (includes MS and Ph. D students)

Academic Year	Total Applied	Male	% Male	Female	% Female
2006-2007	14	10	71	4	29
2007-2008	16	13	81	3	19
2008-2009	13	10	77	3	23
2009-2010	21	18	86	3	14
2010-2011	19	12	63	7	37

The data reflect that there is a significant disparity in the number of male applicants relative to the number of female applicants for all of the academic years under review. In any case, the overall number of applicants is small.

Table 3a below shows the number of male and female students who were accepted and enrolled in the Master of Science program from academic years 2006-2007 through 2010-2011.

Table 3a: Graduate Physics Student Admissions and Enrollment Data-Master of Science

Academic Year	Total Accepted	Male	Female	Total Enrolled	Male	Female
2006-2007	2	2	0	2	2	0
2007-2008	1	1	0	1	1	0
2008-2009	0	0	0	0	0	0
2009-2010	3	3	0	2	2	0
2010-2011	3	1	2	2	0	2

Of the students who were accepted into the master's program for the academic years under review, all but one enrolled. Enrollees included the two female students. However, the number of students admitted and accepted into the master's program is extremely small. Thus, no conclusions can be drawn from this data.

Table 3b shows the number of students, by gender, who were accepted and enrolled in the doctoral program over the same time period.

Table 3b: Graduate Physics Student Admissions and Enrollment Data-Ph.D.

Academic Year	Total Accepted	Male	Female	Total Enrolled	Male	Female
2006-2007	3	2	1	3	2	1
2007-2008	1	0	1	1	0	1
2008-2009	1	1	0	1	1	0
2009-2010	7	6	1	3	3	0
2010-2011	1	1	0	1	1	0

From 2006 until 2010, only thirteen (13) students were offered admission to the Ph.D. graduate Physics program. Of those students, seven male and two female students accepted admission. Only one student was admitted and accepted in the Ph.D. program in the academic year 2010-2011. Because the number of students that have been offered admission over the five year period is so small, it is not possible to extrapolate any useful information or reach any meaningful conclusions regarding disparities in the admission process.

Faculty and administrators who were interviewed discussed the low number of students enrolled in the graduate Physics programs. Some shared that the pool of applicants, male and female, is too small and the available slots for admission are extremely limited.

7. Feedback from Faculty and Students

Most members of the Physics Department faculty have reviewed applications for admission and have served on the Physics Department's Graduate Committee. A number of faculty members reported that the academic strength of each applicant weighs heavily in the selection process, and is a determining factor in admissions decisions. Some faculty members regarded having a strong recommendation letter to be a significant determinant as well in the decision to offer admission to the graduate program. The faculty and Dean responded that the same criteria are applied to students, regardless of their sex.

Students describe the admission process as routine and conforming to the admission procedures and process as set forth in the University's publications. All of the students who were interviewed believed that the admissions process was fair and nondiscriminatory.

Finding

The number of female applicants who were admitted and enrolled in the Graduate Physics Program is small in relation to the number of males. However, the number of all applicants admitted and enrolled is quite low. The Department found no evidence that numerical limitations are placed upon the number of students who are admitted based upon their gender, or evidence that admission decisions are made on the basis of the sex of the applicant. Moreover, none of the students who were interviewed believed they were subjected to disparate treatment or discrimination in the admissions process, and we found no evidence of discrimination in the admissions policies and practices of the University. Therefore, DOE finds that University's Department of Physics and Astrophysics is in compliance with Title IX and DOE's implementing regulations, with respect to its admissions and recruitment policies and practices.

F. Readmission, Leave of Absence, and Drop-out

The University's leave of absence and readmission policy can be found in the *UND Graduate Catalog*, the *Master's Handbook*, *Doctoral Handbook*, and on the University's

website. Students must notify their graduate program and The Graduate School in order to take a leave of absence by submitting a “request for leave of absence from graduate study” in advance of their leave. If the student does not submit the request, he or she must reapply for admission and pay a readmission application fee. Applications for readmission will be reviewed by the program and Graduate Dean. The decision to grant or deny readmission is made by the graduate program and the Graduate Dean. The readmission and leave of absence policy applies to all graduate school programs, including the graduate Physics program.

Since 2006, only two students have left the graduate program. Both students were female; one was a master’s program student, and the other was a Ph.D. candidate.

Finding

The readmission and leave of absence policy of the University’s Graduate School are facially neutral, and there is no evidence to suggest disparities in their application to either males or females. Therefore, we find that the University’s Department of Physics and Astrophysics is in compliance with Title IX and DOE’s implementing regulations.

G. Financial Assistance, Incentives, Awards, and Assistantships

1. Financial Assistance

The Graduate School provides financial assistance awards to all graduate students, including Physics and Astrophysics students. As part of a financial aid award package, Physics and Astrophysics graduate students are eligible for assistantships and tuition waivers.

2. Incentives

In response to DOE’s data request regarding incentives and awards, UND states that neither the Department of Physics and Astrophysics, nor the Enrollment Services Department, offers financial incentives to prospective students. There are some application fee waivers granted to McNair Scholars and to Science, Engineering and Math for Teachers (SCENMAT) scholars.

3. Teaching and Research Assistantships

Students in The Graduate School, including the Department of Physics and Astrophysics, are supported by teaching and research assistantships throughout their enrollment in the graduate programs. However, the administrators stated that the number of teaching assistantship positions that are available for students each year will depend upon the amount of funding that is available to The Graduate School. Because all students will receive the assistantships, the availability of funds determines the number of students accepted into the graduate Physics and Astrophysics program.

As a condition for receiving the aid, the graduate teaching assistants are required to teach four laboratory sections and grade student work. The selections for teaching assistantships are made by the Graduate Committee in consultation with the Department of Physics faculty. Teaching assistantships require the approval of the Dean of the Physics and Astrophysics Department and the Dean of The Graduate School.

The Department of Physics and Astrophysics does not award Graduate Research Assistantships, and there are no written policies and procedures for placing students in research groups. Typically, the student contacts the faculty member who leads the research group in their particular area of interest, and makes a request to join. However, to obtain funding for research assistantships, students must either apply directly to outside funding agencies, or a faculty member may apply for a research assistantship on behalf of the student. Graduate research assistantships are arranged by the faculty researcher and require the approval of the Department Chair and the Dean of The Graduate School. All students must maintain a 3.0 GPA in order to maintain the assistantship.

Summer research professorships are offered by The Graduate School. This type of assistance allows faculty to conduct research with students during the summer. The Graduate School also supports summer doctoral fellowships, which allow Ph.D. candidates to spend full time on their research during the summer.

UND provides data that indicates that most of the graduate students have either a teaching assistantship or research assistantship. The majority of the students who were interviewed confirmed that they had an assistantship. Data provided by UND indicate that six females and sixteen (16) males participated in research from 2006-2007 through 2010-2011. It was noted that two male students did not advance to the research level.

4. Student Feedback

None of the students who were interviewed expressed any concerns or believed that they were subjected to disparities in treatment with respect to the award of teaching and graduate research assistantships, or in the award of financial assistance. Likewise, no student reported that others were being subjected to disparate treatment or discrimination, in this regard. Students responded that they selected research groups that supported their particular interest. Faculty members also confirmed this to be the case.

Finding

The review uncovered no evidence of disparities in the manner in which financial assistance is awarded, or in how assignments are made in teaching and research assistantships. Therefore, we find that the University's Department of Physics and Astrophysics is in compliance with Title IX and DOE's implementing regulations.

H. Qualifying Examinations

There are two examinations given to degree seeking candidates: the Qualifying Examination and the Comprehensive Examination. The Qualifying Examination is given early in the Ph.D. candidate's career, and the Comprehensive Examination is administered after most of the course work has been completed.

In response to the data request, UND submitted the following data:

Table 4a: Qualifying Examination Pass/Fail

Academic Year	Total Pass	Male	Female	Total Fail	Male	Female
2006-2007	1	1	0	2	1	1
2007-2008	2	1	1	0	0	0
2008-2009	1	1	0	0	0	0
2009-2010	2	2	0	1	1	0
2010-2011	1	1	0	0	0	0

These data indicate that ten (10) students (eight males and two females) took the Qualifying Examination during the entire 5-year academic period covered by the review. Seven students passed the examination (six males and one female), and three students failed (two males and one female).

Table 4b: Comprehensive Examination Pass/Fail

Academic Year	Total Pass	Male	Female	Total Fail	Male	Female
2006-2007	1	1	0	0	0	0
2007-2008	2	2	0	0	0	0
2008-2009	0	0	0	0	0	0
2009-2010	1	0	1	1	1	0
2010-2011	2	2	0	0	0	0

These data indicate that seven students (six males and one female) took the Comprehensive Examination during the 5-year period covered by the review. Six students passed the examination (five males and one female). Only one male student failed the examination.

III. Title IX Statutory and Regulatory Requirements

Educational institutions that receive Federal financial assistance are required under Title IX to develop and implement nondiscriminatory policies and procedures, and to appoint an individual to coordinate and implement Title IX functions. In addition, DOE

implementing regulation at 10 CFR Part 1042.140(b) requires that recipients adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of sex discrimination. It is recommended by the Department of Justice (DOJ) that the procedures provide for both formal and informal processes. Complainants should be advised of their right to file a discrimination complaint with the appropriate Federal agency if there is no satisfactory resolution of the complaint.⁴

A. Nondiscrimination and Sexual Harassment Statement and Notification of Nondiscrimination Policies

1. Nondiscrimination Statement

Title 10, Code of Federal Regulations, Part 1042.140 (a), requires that recipients of financial assistance provided by DOE implement specific and continuing steps to notify all interested parties that they do not discriminate on the basis of sex in the educational programs and activities that they operate. Recipients must also notify interested parties that this is a requirement of Title IX. The notification must be published in newspapers and magazines, and by memorandum and other written communications, such as bulletins, catalogs, applications, and recruitment materials. DOE regulations also require that the University's nondiscrimination policy be contained in catalogs and applications for admissions, as well as any recruitment materials. The Department of Education has recommended that, in order for the nondiscrimination policy to be effective, institutions should inform the University community that sex discrimination includes sexual harassment and sexual violence.⁵

The University has a nondiscrimination statement that is published in the preface and information section of the *Undergraduate & Graduate Academic Catalog*, UND Faculty Handbook, UND Employment New Hire Packet, Annual Notification of Policies, UND Code of Conduct, Code of Student Life, and the Office of Human Resources. The statement is also located on the Affirmative Action Office web page. The policies may be viewed at the following locations online:

- <http://www.und.nodak.edu/dept/registrar/catalogs/catalog/index.htm>
- <http://und.edu/student-affairs/code-of-student-life/>
- <http://www.ndus.nodak.edu/makers/procedures/hr/?ID=290>

UND's nondiscrimination statement reads:

It is the policy of the University of North Dakota that there shall be no discrimination against persons because of race, religion, age, color, sex, disability, sexual orientation, gender identity, genetic information, national origin, marital status, veterans' status, or political belief or affiliation, and that equal opportunity and access to facilities shall be

⁴See, *Title IX Legal Manual*, U. S. Department of Justice, Civil Rights Division (January 11, 2001).

⁵Department of Education *Dear Colleague Letter* dated April 4, 2011.

available to all. This policy is particularly applicable to the admission of students in all colleges and in their academic pursuits. It also is applicable in University-owned or University-approved housing, food services, extracurricular activities and all other student services. It is the guiding policy in the employment of students either by the University or by non-University employers through the University and in the employment of faculty and staff. Inquiries as to the equal opportunity, affirmative action, or regulations may be directed to the Affirmative Action Officer. The Affirmative Action Officer, Sally J. Page (Office address: 101 Twamley Hall; mailing address: 264 Centennial Drive, Stop 7097, Grand Forks, ND 58202-7097; phone: 701-777-4171; email address: sally.page@email.und.edu) is assigned the responsibility to be the University's designated coordinator for receiving complaints of discrimination or harassment under the following federal regulations: Title IX of the Education Amendments of 1972 (sex/gender discrimination); Title VI and Title VII of the Civil Rights Act of 1964 (race, color, national origin, discrimination); Age Discrimination Act of 1975 (age discrimination); Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans With Disabilities Act of 1975 (disability discrimination); Genetic Information Nondiscrimination Act of 2008; and other equal opportunity statutes for which a coordinator is not required. Any complaint or concern regarding discrimination or harassment, not resolved by the University, may be filed with the Office of Civil Rights, U.S. Office of Education, 111 North Canal Street, Suite 1053, Chicago, IL 60606-7204.

2. Sexual Harassment Prevention Policy

The University's anti-harassment policy covers all forms of unlawful harassment, including sexual harassment. At UND, the Affirmative Action Office of the President is responsible for reviewing and updating the anti-discrimination and anti-harassment policies and procedures, and conducts such reviews in coordination with the University's General Counsel.

The University's anti-harassment policy is specifically set forth and reads, in part:

Mission and Priorities:

The University of North Dakota does not tolerate harassment in any form. Harassment is contrary to the stated mission of the University to serve "the state, the country, and the world community" and to encourage students "to make informed choices, to communicate effectively, to be intellectually curious and creative, to commit themselves to lifelong learning and the services of others, and to share responsibility both for their own communities and for the world." See University of North Dakota Mission Statement. Harassment is in direct conflict with the

identified priorities of the University to “reflect and promote respect and appreciation for diversity, human rights, and differences of opinion”; to “maintain clear and open lines of communication”; and to “ensure a positive work environment.” See, University Campus Climate Priority Action Areas. The University of North Dakota recognizes that the existence of harassment disrupts all areas of the University community.

Harassment of an individual or group that is related to their status in a protected class that is sufficiently severe, persistent, or pervasive so as to interfere with or limit the ability of the individual or group to participate in or benefit from the University of North Dakota’s programs or activities is prohibited. Harassment may take the form of oral, written, graphic, or physical conduct that is related to an individual’s or group’s protected class status. This includes gender, race, national origin, color, disability, or other protected classes.

UND’s anti-harassment policy can be found online at:

- <http://www/und.edu/dept/aao/Pol.htm>, and
- http://und.edu/affirmative-action/_files/docs/eo_aapolharassment.pdf

Recent recommendations by the U.S. Department of Education suggest that a recipient’s nondiscrimination policy should state that sex discrimination covers sexual harassment, including sexual violence, and that the policy should include examples of the types of conduct that it covers. The recommendations prompted UND to issue new guidelines that define sexual harassment.⁶ UND’s guidelines define sexual harassment, and provide the following examples of improper and/or harassing behavior:

[U]nacceptable behavior, which can range from violence and bullying to more subtle behavior such as ignoring an individual at work or study. It subjects an individual or a group to unwelcome attention, intimidation, humiliation, ridicule, offense or loss of privacy. It is unwanted by the recipient and continues after an objection is made. Harassment may take the form of oral, written, graphic, or physical conduct that is related to an individual’s or group’s protected class. This includes gender, race, national origin, color, disability, or other protected classes. Harassment based on sex, marital status, pregnancy, age, race, ethnicity, disability, or sexuality is a form of Unlawful Discrimination.

Harassment includes sexual and racial harassment, and bullying as well as any other form of personal harassment arising from disability, sexual orientation, gender identity, socioeconomic status, age, religion, etc. It can be a single explicit incident causing distress or repeated unacceptable

⁶ UND’s AA Office has published on its web page, *Guidelines on Discrimination Because of Sex*.

behavior affecting the dignity of an individual that appears or feels offensive, demeaning, intimidating or hostile, such as:

- Staring, stalking, touching
- Sexual innuendoes and come-ons
- Racist or sexist cartoons or posters, jokes about accents, or sexual orientation
- Yelling, name-calling, mimicry

SEXUAL HARASSMENT IS:

- Any unwelcome sexual advances
- Requests for sexual favors
- Verbal or physical conduct of a sexual nature
- Consensual relationships can develop into harassment when relationships end

Our discussions with the faculty and administrators confirmed that the interviewees were familiar with the University's nondiscrimination and harassment policies. The University's nondiscrimination policies are consistent with the recommendations made by the U.S. Department of Education.

Finding

The Department finds that the University's nondiscrimination and sexual harassment policies are in compliance with Title IX and DOE requirements. UND's policies state that discrimination on the basis of sex is prohibited under Title IX, and the University has broadly disseminated the required notifications of its policies throughout the university community. These notices are easily accessible online and in University publications.

B. Designated Title IX Coordinator and Responsible Office

DOE regulation 10 CFR Part 1042.13(a) provides that each recipient should designate at least one employee to coordinate its efforts for complying with and carrying out its Title IX responsibilities. The Office of the President, Affirmative Action Office, is responsible for coordinating the University's Title IX program, and the Affirmative Action Officer is responsible for ensuring compliance with Title IX. The current Affirmative Action Officer has been affiliated with this position since 1977, and reported directly to the President of the University until shortly before the review began. The Coordinator now reports to the General Counsel.

The Affirmative Action Office handles complaints of sex discrimination and sexual harassment, and is also responsible for developing and instituting the University's anti-harassment, anti-discrimination policies, procedures, and harassment training. The Affirmative Action Officer is also responsible for the compliance with, and

implementation of, the equal opportunity and affirmative action policies of the University.

C. Notification

DOE implementing regulation 10 CFR Part 1042.13(a) also provides that a recipient education institution is required to notify all of its students and employees of the name, office address, and telephone number of the designated Title IX employee. The notification must be disseminated in print and by other forms of written communication.⁷

UND's primary method of notifying students of their right to file a Title IX discrimination complaint or a sexual harassment complaint, and a description of its complaint process, is through its Annual Notification of Policies and Procedures. The Annual Notification of Policies and Procedures is published in the *UND Code of Student Life*, the UND directory, the *Academic Catalog of the University of North Dakota*, the Office of Human Resources, the Affirmative Action Office, Dean of Students websites, the UND Faculty, Staff, Affiliated Unit Directory, and the Faculty Handbook. These publications are available electronically on the University's web pages and in hardcopy, and are also made available to students, faculty, and staff during orientation.

All new employees are provided a copy of the Annual Notification of Policies in a "New Employee Orientation Session" in their employee packet. The Notification must be signed and submitted to the Office of Human Resources/Payroll as a condition of employment. In addition, the Director of the Office of Human Resources issues an annual memorandum to all faculty and staff that require the staff to acknowledge, in writing, that they have reviewed and understand the University's policies and procedures.

The affirmation states:

My signature below indicates that I have reviewed and understand the policies and procedures for fire, bomb threats, severe weather/natural disaster, sexual harassment, hostile work environment, workplace violence, sexual assault, security compliance, drug-free workplace/substance abuse, computing and network usage, discrimination and harassment grievance procedures, designated medical provider, reporting injuries/incidents/hazards, nepotism, and fraud.

1. Flyers and Posters

Each University department is asked to post the Annual Notification on a centrally located poster board. A copy of the poster was submitted by UND pursuant to the data request and may be found at <http://www.und.edu/dept/payroll/html/forms.htm#poster> and <http://www.humanresources.und.edu/html/PoliciesAnnualNotice.htm> for all departments to download. The University posts "Equal Employment Opportunity is THE LAW," which restates the Federal law with respect to Title IX.

⁷ 10 C.F.R. §1042.140

A "Notification of Procedures For Complaints of Discrimination or Harassment," signed by the UND President on October 7, 2008, directs students to the appropriate official to report discrimination or harassment, including the Affirmative Action Office. It advises the student that the matter will be promptly investigated and action taken when appropriate. The notification also advises that retaliation for reporting harassment or discrimination is strictly prohibited, and it cites the online location of the University's harassment and grievance policies and procedures.

The University informed OCR that copies of the 2010 Annual Notification of Policies, the Equal Opportunity/Affirmative Action Policy Statement, and the Notification of Procedures for Complaints of Discrimination or Harassment are posted on the Department of Physics and Astrophysics bulletin board.

2. Student and Faculty Feedback

All of the faculty members and administrators who were interviewed were familiar with the procedures for filing a Title IX complaint, and were aware of the identity of the Title IX Coordinator. Many of the students who were interviewed were somewhat familiar with the existence of procedures for filing complaints, but only two students could identify the Title IX Coordinator. The majority of the University's Physics faculty knows the identity and location of the Title IX Coordinator, and they are familiar with the complaint filing processes, procedures, and policies.

Finding

We find that the University is in compliance with the notification requirements of Title IX and DOE implementing regulations. However, despite fulfilling the notification requirements, the majority of the students that were interviewed during the compliance review did not know that the University employed a Title IX Coordinator. Furthermore, the students did not know where, or how, to file a complaint of discrimination or harassment. OCRD informed the University's Affirmative Officer of the findings in this regard. As a result, the University instituted changes to its notification and dissemination processes. Specifically, the University has agreed to more prominently identify and display information regarding the Title IX Coordinator on the University's web pages and, in particular, on the web pages of the Office of The Graduate School. UND has also set up information about Title IX on Facebook, Twitter, and the University's closed circuit television system that broadcasts to the Union and residence halls, and it has conducted Title IX training for students, the Dean of Students Office and housing personnel.

The "Notification of Procedures for Complaints of Discrimination or Harassment" posted by UND advises persons alleging discrimination of the right to file a complaint with U.S. Department of Education. While this is accurate, we note that students may also file a Title IX complaint with any Federal agency that provides financial assistance to the University.

Recommendation

The Department recommends that the University monitor and evaluate the effectiveness of its methods for dissemination of the notification to students, faculty, and the University community to uncover deficiencies, and to ensure the effectiveness of its newly instituted processes of notification and publication of the University's Title IX complaint process. Moreover, the University may want to consider notifying students that, in addition to filing a Title IX complaint with UND and the U.S. Department of Education, they may also file such a complaint with any Federal agency that provides the University with financial assistance.

D. Complaint Process and Procedures

As previously mentioned, DOE implementing regulation 10 CFR Part 1042.140(b) requires that recipients adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of sex discrimination.

1. The Complaint Process

UND has several avenues for filing complaints of discrimination, harassment, and sexual assault. In general, complaints of discrimination and harassment by a student against another student are handled by the Office of the Dean of Students, following a review at the departmental level. The UND Police Department handles complaints of a criminal nature. Complaints of discrimination and harassment by students against faculty and staff should be reported to the Academic Deans. The Academic Deans also manage complaints involving interns, student teachers, personal consensual relationships, and faculty and staff employment discrimination. Complaints by students, faculty, and staff that are related to non-academic matters are reported to the Non-Academic Department Heads. Graduate School students report complaints that are related to academic issues, awards, and scholarships to The Graduate School. Complaints against Deans, Department Heads, or Vice Presidents are reported to their superiors. Students are directed to file an unresolved complaint with the U.S. Department of Education, Office of Civil Rights.

Administrators, faculty, and staff have an obligation to immediately refer a complainant to the appropriate office or to the Affirmative Action Office, and may not attempt to discourage the reporting of any discrimination or harassment. In addition to referring a complainant to the appropriate office or to the Affirmative Action Office, administrators, faculty, and staff are also required to notify the appropriate reporting office or the Affirmative Action Office about disclosures or allegations of discrimination or harassment. Once notified, the Office of the President, Affirmative Action Office, consults with the complaining party and department heads and officials to resolve the complaint. The Affirmative Action Officer may decide to investigate or accept the lead role in an investigation.

The procedures for filing complaints of sexual harassment are the same as those for filing a formal complaint.

2. Anonymity and Retaliation

The University does not guarantee confidentiality or anonymity to complainants who allege discrimination or harassment. However, it is UND's stated policy that, depending upon the nature of the complaint, the University will attempt to maintain the anonymity of the complainant.

Retaliation against an individual who files such a complaint is expressly prohibited.⁸ Furthermore, no one may be intimidated, threatened, coerced or discriminated against because they filed a complaint, or testified or participated in an investigation or hearing. Furthermore, when there is a complaint of retaliation, the matter will be investigated as a new and separate complaint.

3. Procedures

DOE's Title IX implementing regulations require that recipients adopt and publish grievance procedures that provide for the prompt and equitable investigation and resolution of student complaints of discrimination.⁹ Accordingly, a recipient will be in violation if it does not have such procedures and policies in place. The U.S. Department of Education provides guidance for educational institutions and recommends that they adopt informal and formal grievance processes.

The University utilizes both formal and informal avenues for resolution and processing of complaints. However, it is the written policy of the University to encourage the reporting of incidents of discrimination and harassment, and to handle complaints at the lowest possible level to ensure a quick and effective response.¹⁰

The procedures for filing complaints of discrimination or harassment are set forth on UND's website at http://und.edu/affirmative-action/_files/docs/eo_aapolharassment.pdf. It should be noted that the Physics and Astrophysics department does not have separate processes for receiving and processing Title IX complaints.

Complaints of discrimination or harassment may be made orally or in writing. However, complainants will be asked to submit and sign a complaint form, or sign a letter that details the allegations. The Office of the Dean of Students provides a similar complaint form for students that complain through that office, which is available at <http://www.und.edu/dept/aao/complaintform.htm#disccomplaint>.

⁸ *UND Code of Student Life*, Section I-8. Also see, *North Dakota Century Code*, Section 14-02.4-18, Human Rights.

⁹ DOE regulations, 10 C.F.R. §1042.135(b).

¹⁰ <http://www.und.edu/dept/aao/Pol.htm>

UND's complaint process states that any individual who believes that they have been subjected to discrimination or harassment should report the matter to the appropriate official, Dean, or Department head, preferably within thirty (30) days, or when the person has reasonable knowledge or belief that discrimination or harassment has occurred. Complainants are requested to provide a detailed account of the allegations in order to clarify the facts and charges. Reporting of an incident will immediately trigger an investigation. A reporting form is located on the Affirmative Action Office website. In addition, the requirement to report the complaint is prominently displayed on the Affirmative Action Office's homepage.

Upon learning of the complaint, the official or Administrator is required to record the information provided by the complainant, and must also immediately notify the Affirmative Action Office that a complaint has been reported. Thereafter, all documentation must be sent to the Affirmative Action Office when the case investigation is completed.

The University provided the reviewers with a copy of the form entitled "the Discrimination/Harassment Complaint Reporting Form," which can be found at <http://www.und.edu/dept/aao/newform.htm>.

The official or administrator who received the complaint is required to commence an investigation. If appropriate, the Affirmative Action Officer assists the administrator to investigate the matter. As noted above, complaints are handled at the lowest possible level in order to obtain a quick and effective resolution. If the matter cannot be resolved at the lowest level or a more comprehensive investigation is required, then UND selects a three member team from a pool of specially trained investigators to conduct the investigation. Trained personnel include human resources professionals and administrators, crisis team members, judicial officers, and the Affirmative Action Officer.

UND's procedures prescribe that an investigation should be completed within sixty (60) working days of the filing of the complaint, but may be extended up to 120 days under certain circumstances. If the matter is extended beyond the sixty (60) days, the justification for doing so will be noted in the file. In any case, the parties to the complaint will be kept informed of the status of the investigation by the Affirmative Action Officer or the administrator conducting the investigation. The Affirmative Action Officer states that an informal complaint is usually resolved in five business days or less, and that formal complaints can take sixty (60) days to process.

At the end of the investigation, the parties will receive written notification of the findings of the investigator. If the allegations are substantiated, then corrective action will be instituted by the appropriate officials. Disciplinary actions may include a verbal warning, reprimand, suspension, probation, demotion, or termination.¹¹ If disciplinary action is

¹¹ The student disciplinary procedural requirements for action against accused students can be found in the *UND Code of Student Life*, which is published annually. Actions involving faculty are outlined in *The University of North Dakota Faculty Handbook*, the North Dakota State Board of Higher Education Policies and Procedures, and the *North Dakota University System Human Resources Manual*.

taken, students, faculty, or staff will be afforded due process protections according to state and university procedural processes.¹²

A complainant may appeal a finding that contradicts the complainant's allegations. The appeal must be filed within ten (10) working days after the complainant receives notice of the findings. The appeal is filed with the Vice President of the Department involved in the matter. The decision on appeal is final.

4. Complaints of Discrimination or Harassment against a Student

A student may file a complaint of sexual harassment or discrimination against another student, and have the complaint investigated and resolved through the student disciplinary process. That process is administered by the Office of the Dean of the Students. In any case, if the matter concerns allegations of sexual harassment or sex discrimination, the Affirmative Action Officer will be notified. The accused student will also be notified of the complaint and provided a statement of the charges and the procedures that govern the investigation.

Any student, faculty member, or staff person may file a complaint against a student for violations which allege harassment or discrimination under the *Code of Student Life*. The Vice President for Student Affairs or a designee¹³ may conduct an investigation to determine if the complaint has merit or whether it can be resolved administratively by mutual consent of the parties. The case will be closed if the matter is resolved. Matters that involve sexual assault or sexual harassment will trigger a separate set of protocols that have been enacted to benefit the well-being and protection of the complainant.¹⁴

Mediation is offered as an informal method for resolving the complaint, if deemed appropriate by the Dean of Students. Participation is voluntary, and any agreement reached is binding on the parties.

Matters that are not resolved informally are set for hearing within three (3) to fifteen (15) days after the accused student has been notified of the charges. All hearings are conducted in private.

In general, an accused student will have the following rights:

- To be notified of the charges;
- To be heard by a fair and impartial decision maker;
- To know the identity of the accuser;

¹² Procedures can be found in the UND *Code of Student Life*, *University of North Dakota Faculty Handbook*, North Dakota State Board of Higher Education Policies and Procedures, and North Dakota University System Human Resources Manual.

¹³ The Dean of Students, Director of Residence Services, or other designee of the Vice President for Student Affairs. The Vice President for Student Affairs or his designee is referred to as the Senior Student Conduct Administrator (SSCA).

¹⁴ UND *Code of Student Life*, Section 4.

- To receive written notification of sanctions; and
- To receive written notification of the appeal process.

Hearings are conducted by a Student Conduct Administrator (SCA). A SCA can be any person authorized by the Senior Student Conduct Administrator (SSCA) to determine whether a student has violated the *Code of Student Life*. The student has the right to access and review any information that will be introduced at the hearing, and to be assisted by an advisor of their choosing, including an attorney. During the hearing, the accused may present evidence and witnesses relevant to the charges. The SCA renders a decision at the conclusion of the informational hearing which determines whether it is more likely than not that the accused violated the *Student Code*, and whether the matter warrants further investigation and/or referral to the Judicial Officer¹⁵ in the Office of the Dean of Students. The decision of the SCA is in writing, and rendered to the accused student within five business days.

The Judicial Officer may then refer the case to the Student Relations Committee for disciplinary proceedings. The Student Relations Committee is composed of students and faculty appointed by the Vice President of Student Affairs who are trained to determine violations of the Student Code, and to impose sanctions when violations have occurred.

A student has the right to appeal a decision of the SCA to the Senior Student Conduct Administrator; to the Association of Residence Halls Conduct Counsel; the Director of Residence Services; or the Vice President of Student Affairs, as appropriate.

5. Sexual Assault

Complaints of sexual assault are handled formally through the University's disciplinary process, as described above. These cases will be reported to the Dean of Students Office, which will manage the investigation. In addition to reporting and investigating these matters, UND provides crisis management and refers cases of sexual assault to the criminal justice system. Mediation is not an option to be offered in cases of sexual assault.

Material submitted by UND states that it is a guiding principle in the report of sexual violence to avoid possible re-victimizing of the complainant by forcing the individual into any plan of action.¹⁶ Therefore, the *Code of Student Life* recommends that the victim first seek safety and medical treatment, including counseling services, and that the victim file a police report with the University Police Department. Students are encouraged to file a police report. If the complainant does not file a police report, he or she may still file a disciplinary complaint through the Dean of Students Office. Students are also encouraged to seek assistance at the UND Counseling Center, UND Women's Center, Student Health, or the Affirmative Action Office.

¹⁵ The Judicial Officer is the person authorized by the Vice President of Student Affairs to represent the University at a student conduct hearing.

¹⁶ See, *Sexual Violation Protocols*, <http://und.edu/student-affairs/dean-of-students/sexual-violation-protocols.cfm>

6. Number of Complaints

The Office of Civil Rights received data from UND regarding the number and nature of complaints filed by students during the academic years from 2006 through April 2011. There were no gender based discrimination or harassment complaints, or complaints of sexual assault originating from the Department of Physics and Astrophysics during this period. There were, however, twenty (26) cases of sexual harassment or gender discrimination filed by students throughout the University.

7. Training

Online harassment prevention training is mandatory for new staff, faculty, administrators, and student employees such as teaching assistants or students who are paid to interact with other students in an academic capacity. All employees are required to receive training as a condition of employment and within the first month of hire. The training is focused on sexual harassment, and resources and procedures for addressing complaints. The training can be accessed at: <http://employertraining.com>. Faculty and staff are also provided a handbook that addresses resources and sexual harassment reporting requirements.

All of the faculty and administrators who were interviewed stated they had received the mandatory training and are aware of their rights and responsibilities under Title IX. A few faculty members had difficulty recalling whether the training specifically addressed sexual harassment, or how frequently they had received the training. For this reason, we recommend that refresher training be provided on a periodic basis, that the training specifically address sexual harassment, and that it be identified as sexual harassment training.

UND is currently developing awareness training that will be offered to all of its students.

8. Student Feedback

In general, the students who were interviewed were unfamiliar with the complaint process, and none attested to ever having filed a complaint. Furthermore, the students were unaware of others who might have utilized the University's complaint processes and procedures, and did not know where or to whom to report an incident.

Finding

We find that UND has met the statutory requirement of adopting and publishing grievance procedures that provide for the prompt and equitable investigation and resolution of student complaints of discrimination, as prescribed under Title IX and DOE's implementing regulations. Upon the Department's recommendation, UND has modified its complaint procedures to provide for timelines at critical stages in the investigative process. For instance, there were no stated timeframes for the

commencement of the investigation, or for notification to the accused of the filing of a complaint and the status of the investigation. Investigations will now commence within one week of the receipt of the complaint. The complainant and the accused will be informed of the status of the investigation at once when the investigation begins. If an extension of the investigation is made beyond sixty (60) days, or if there is a status change, including the completion of the investigation and its findings, notification will be made within three days. UND has incorporated the modifications in the *Code of Student Life* and the Affirmative Action website.

We find that the sixty (60) day timeframe to complete an investigation of discrimination or harassment (with potential extension) is a reasonable time period, and satisfies the requirement for prompt resolution of complaints in accordance with DOE's implementing regulations.

The University's procedures allow for a fair and impartial investigation of allegations of discrimination and harassment, and are, therefore, equitable. The procedures also allow both parties to present evidence and witnesses, and provide for an impartial resolution of the complaint.

IV. The Environment/Climate

A. Gender Bias Perceptions

Student interviewees did not report any disparities in the treatment of themselves or other students in the classrooms, lectures, or laboratories, by faculty, research assistants, teaching assistants, administrators, or fellow students that may be perceived as gender bias or barriers due to gender. Female students did not feel that they were limited in opportunities offered by the program, or denied participation in any manner. No student felt that gender played any role in the classroom or laboratory experience. Faculty interviewees uniformly expressed the opinion that no such bias or barriers were present in any program or activity within the Department of Physics and Astrophysics.

B. Campus Safety

UND's written policy maintains that, in order to foster a safe living and learning environment, the university considers its physical surroundings and educational programming for safety precautions and prevention, crisis management, reporting, medical and counseling services, discipline system, academic schedules, living arrangements and responses to sexual violence.

The reviewers posed questions about campus safety to the interviewees in order to determine whether students believed that any safety-related barriers had prevented equal access to, or participation in, the university's academic programs and other activities. All of the students and faculty made statements that indicated they felt no threat to their personal safety on campus and that they had no other safety concerns. Students, administrators, and faculty reported in the interviews that UND deploys lighting and

phone systems across the campus, as well as bus transportation and taxi service during evening hours.

The review team did not visit the UND campus for this review, and did not conduct an assessment of the safety of the physical environment; nor did the review team determine the adequacy of any measures taken by the University to ensure equal treatment of students regarding their safety and equal access to the university's programs and activities. Therefore, no finding is made regarding the adequacy of measures taken by the University to ensure campus safety and compliance with Title IX and DOE implementing regulations.

C. Family Focused Initiatives

Faculty, administrators, and students reported in the interviews that the University provides on-campus daycare for students and faculty members with children for a fee, and there is family housing available for students with families.

V. Conclusion and Recommendations

The Department finds that the University's Department of Physics and Astrophysics at the University of North Dakota is in compliance with Title IX and DOE's implementing regulations. The compliance review did not uncover any evidence of discrimination in the implementation of the University's outreach and recruitment, admissions, leave of absence, retention, and financial assistance policies, practices and procedures. There is no evidence that the campus climate or other circumstances hinder or exclude the participation of Physics and Astrophysics students in the programs and activities offered by UND.

The University has complied with the requirement to adopt and publish grievance procedures that provide for the equitable resolution of Title IX discrimination and harassment complaints. The University has well-developed policies and procedures regarding nondiscrimination, sexual harassment, and sex discrimination.

We also find that UND has complied with the notification requirements of Title IX and DOE's implementing regulations. The policies and procedures are broadly disseminated throughout the institution via print and multiple website locations in order to inform students, faculty, administrators, and staff. In addition, the University has complied with the requirements for designating a Title IX Coordinator to carry out its policies and procedures.

The policy notification advises of the right to file discrimination and harassment complaints with the Office of Civil Rights, U.S. Department of Education. We note, however, that a complaint may be filed with other federal agencies as well, including the U.S. Department of Energy. We recommend that the University modify its policy statement to reflect this fact. In addition, the information should also appear on the

University's web pages that concern grievance and complaint policies and procedures, and in the *Code of Student Life*.

In general, faculty members and administrators are knowledgeable regarding the University's Title IX policies and processes. However, there was a general lack of awareness by the students who were interviewed. These students did not know where or how to file a complaint of discrimination or harassment, and they were not aware of the existence of a Title IX Coordinator. To address these concerns, UND set up information about Title IX on Facebook, Twitter, and the University's closed circuit television system that broadcasts to the Union and residence halls. UND also conducted Title IX training for students, the Dean of Students Office, and housing personnel. We commend UND for this approach. The Department recommends that the University monitor and evaluate its methods of communication in order to ensure the effectiveness of the new notification processes.

All of the faculty and administrators receive mandatory sexual harassment training as a condition of employment. We commend UND for this practice and recommend that it include periodic refresher training for faculty and administrators.